

making this determination, the contractor must assess its personnel processes, the effectiveness of its outreach and recruitment efforts, the results of its affirmative action program audit, and any other areas that might affect the success of the affirmative action program.

(f) *Action-oriented programs.* The contractor must develop and execute action-oriented programs designed to correct any identified problems areas. These action-oriented programs may include the modification of personnel processes to ensure equal employment opportunity for individuals with disabilities, alternative or additional outreach and recruitment efforts from among those listed in § 60-741.44 (f)(1) and (f)(2), and/or other actions designed to correct the identified problem areas and attain the established goal.

(g) A contractor's determination that it has not attained the utilization goal established in paragraph (a) of this section in one or more job groups does not constitute either a finding or admission of discrimination in violation of this part.

(h) The utilization goal established in paragraph (a) of this section shall not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities.

§ 60-741.46 Voluntary affirmative action programs for employees with disabilities.

(a) The contractor is permitted to develop and implement training and employment for employees with disabilities. Examples include, developing a job training program focused on the specific needs of individuals with certain disabilities such as traumatic brain injury (TBI) or developmental disabilities and utilizing linkage agreements to recruit program trainees. Successful programs such as these have been developed by some contractors and OFCCP desires to make clear they are permissible, though not required.

(1) If a contractor elects to implement a voluntary affirmative action program for employees with disabilities, a description of the program and the policies governing the program, including the name and title of the official responsible for the program, shall

be included in the contractor's written affirmative action program. An annual report describing the contractor's activities pursuant to the program and identifying the outcomes achieved should also be included in the contractor's affirmative action program.

(2) Disability-related information from the applicant and/or employee self-identification request required by § 60-741.42 may be used to identify individuals with disabilities who are eligible to benefit from a voluntary affirmative action program for employees with disabilities.

(b) The contractor shall not use such programs to segregate individuals with disabilities or to limit or restrict the employment opportunities of any individual with a disability.

(c) The contractor shall not discriminate against an individual with a disability who has participated in a voluntary affirmative action program for employees with disabilities with respect to any term, condition, or benefit of employment, including, but not limited to, employment acts such as compensation, promotion, and termination, that are listed in § 60-741.20.

(d) These voluntary training and development programs should not result in discrimination against other groups and do not relieve a contractor from liability for discrimination under this act, Executive Order 11246, or the Vietnam Era Veterans' Readjustment Assistance Act.

§ 60-741.47 Sheltered workshops.

Contracts with sheltered workshops do not constitute affirmative action in lieu of employment and advancement of qualified individuals with disabilities in the contractor's own work force. Contracts with sheltered workshops may be included within an affirmative action program if the sheltered workshop trains employees for the contractor and the contractor is obligated to hire trainees at full compensation when such trainees become "qualified individuals with disabilities."